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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,294	11/26/2001	Hong M. Dang	100111405-2	9718

7590 03/18/2008  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER
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GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3687

MAIL DATE	DELIVERY MODE
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03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 14 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al. (Pub US 2002/0052792).**

Johnson et al. discloses the claimed service provider computer system to provide a tax calculation and payment service, the service provider computer system (service provider computer system is construed by the Examiner to include not only the system administrators on-line system but also the consumer's lending institution's on-line computer system) comprising:

A web server to receive transaction requests from subscriber computer systems associated with corresponding merchants who have subscribed to the tax calculation and payment service (for example, see figures 11 and 12 and paragraph [0105] disclosing system administrator providing merchants and their on-line customers with tax information from transaction requests);

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One or more additional servers having a services module executable in the one or more additional servers (for example, the system administrator and the Merchant's financial institution website's servers), the services module comprising:

A first module to store transaction data of the transaction requests in at least one first file (for example, [0107] discloses that system administrator sends transaction reports to the state/local tax administration which inherently includes transaction data. Paragraph [0101] discloses that the system's website is capable of working with "numerous markup languages" and the system administrator website 96 is written in all languages presently known or that may be hereinafter developed to design and create websites. Examiner notes that XML is a broadly used language for Web developers that is defined as a language standard published by the W3C and supported by the computer industry);

A tax computation module to compute tax due on transactions corresponding to the transaction data (system administrator website calculates tax due on transactions, for example see paragraph [0105]) and to store the tax due in at least one second file (tax information is sent to the web merchant in order for the merchant to communicate the tax amount to the customer's lending institution to be put into the tax account of the web merchant's. For example see [0106]); and

A tax remission module to convert the at least one second file from a first format to a second format for use by an automated clearing house network

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(Johnson et al discloses the conversion of data formats because Johnson et al. discloses data being collected via a website written in “all languages presently known or that may be hereinafter developed to design and create websites”, see [0101], and the ability to send related data to an ACH in order for funds to transfer, which requires a TXP format, therefore conversion takes place.), and the tax remission module to transmit the at least one second file in the second format of a financial institution for remission of funds relating to the tax due (for example [0106] discussed the transmitting of funds to the Merchant’s tax account and subsequently to the state escrow account, data must be sent to the ACH in the proper format in order for the funds to be transferred).

Regarding the generation of periodic tax returns, Johnson et al. discloses the generation of tax remittance reports which the Examiner is broadly construing to be “tax returns”. Examiner notes that these remittance reports are electronic “forms” on which a taxpayer makes a statement of income and personal circumstances, used to assess liability for tax, which is in line with the dictionary definitions provided by the Applicant.

Regarding reporting of tax information to one or more government authority, Johnson et al. discloses in paragraph [0107] that transaction reports are sent to “state/local tax administration”. The Examiner construes this to mean that transaction reports are sent to state and local tax administration. Figures 7 and 8 and Paragraph [0082] discusses determining taxing jurisdictions and locations.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 2, 4, 6, 7, 9-13, 17-19 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (Pub US 2002/0052792) in view of Examiner's Official Notice.**

Johnson et al. discloses the claimed service provider computer system but is silent regarding specifically using XML and TXP based formatted data.

Examiner takes Official Notice that it is notoriously old and well known in on-line computer industry to XML language for developing websites and is a widely known markup language and would be a design choice. Examiner notes that XML is a broadly used language for Web developers that is defined as a language standard published by the W3C and supported by the computer industry. Examiner also takes Official Notice that it is notoriously old and well known in the financial clearinghouse industry to use TXP-based format. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the website language in XML and the clearinghouse language in TXP format of Johnson et al. with the website language in XML and the clearinghouse language in TXP format of Examiner's Official Notice, in order

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to utilize a widely known markup language for Web communications and to carry out the financial transactions with the automated clearing house (ACH).

Regarding the distribution of software functionality over a particular set of servers, the Examiner takes Official Notice that it is notoriously old and well known in the art to use any number of servers to reduce the load on any one server and to divide the work among different servers.

Regarding the use of redundant servers, the Examiner takes Official Notice that it is notoriously old and well known in the art of networked servers to have redundant servers to provide back up in the event the server has problems or can not carry the full load of the work to be processed.

Regarding a security, backup, real-time accessibility, system monitoring, load balancing and scalability applications, the Examiner takes Official Notice that it is notoriously old and well known in the art of networked servers to have these applications to provide security, back up, real time, monitor the system and to provide load balancing and scalability to the system.

Regarding modular programming, the Examiner takes Official Notice that it is notoriously old and well known in the art of computer programming to have modular applications which can work together to perform the work for a larger program while still remaining individually useable. In modular software components are functionally autonomous and self-contained, other components can call on its services with out having to know how it works.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 2, 4, 6, 7, 9-14, and 17-25 have been considered.

Applicant's arguments filed 12/17/07 have been fully considered but they are not persuasive.

The Applicant has traversed the examiner's reliance on "common knowledge". To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art MPEP Sec. 2144.03(C). See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ. The Applicant has merely made a blanket statement contesting the official notice taken without pointing out how the specific official notice is erroneous. For example how it is not old and well known in the art of on-line computers to use XML language for websites? In the art of financial clearing houses to use TXP-based format? In the art of on line processing to use multiple servers?

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant has merely recited that the Official Notice is improper and has not specifically discussed what the "improper" Official Notice lacks.



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Applicant appears to be arguing that since the Examiner has not continued to use Wiles to teach elements lacking from Johnson that this is "evidence" that various elements do not defy dispute. The fact that Wiles is no longer used does not provide this evidence, it only means that Wiles is not necessary as Examiner contends that the Official Notice is sufficient. For example that it is extremely old and well known in the art of online communications to use XML protocol, removal of a reference to teach this does not change this fact.

Applicant has argued that Johnson does not delineate a server associated with a merchant from servers associated with a service provider computer system. Examiner contends that Johnson discloses a delineated merchant server, such as the web merchant computer 104 shown in figure 12, associated with a merchant from servers associated with a service provider computer system, such as the system administrator 108, consumer's lending institution, 118, web merchants bank 122, that receives transaction information, calculates tax and transfers the tax funds, from the tax account to the state escrow account 128. In this manner the defined service provider computer system performs the acts of transferring the tax payments and not the merchant, as the Applicant has argued.

Examiner notes that the defined service provider computer system includes the system administrator 108 that a merchant subscribes services from and therefore is associated with a "service provider".

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is 571/272-6781. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571/272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/  
Primary Examiner, Art Unit 3627

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Primary Examiner  
Art Unit 3627

3/4/2008